

RESOLUTION NO. 09-036**A RESOLUTION OF THE CUPERTINO CITY COUNCIL
ADOPTING A VOLUNTARY EXPENDITURE LIMIT FOR THE
NOVEMBER 3, 2009 ELECTION**

WHEREAS, the City Council adopted Resolution No. 07-121 which established a voluntary expenditure limit of \$26,500 for the November 6, 2007 election and Resolution No. 07-167 which established a voluntary expenditure limit of \$26,500 for the February 5, 2008 special election.

WHEREAS, on November 3, 2009 a General Municipal Election will be held to fill vacant seats, and the City Council wishes to apply the same voluntary expenditure limit to that election.

NOW, THEREFORE, BE IT RESOLVED:

1) Candidates for City Council are requested to limit their campaign expenditures to \$28,000 for the City Council election of 2009.

2) Any non-monetary contribution is deemed to be a campaign expenditure made by the receiving committee on the date of receipt, and it counts against the voluntary expenditure limits established by this resolution if an expenditure for equivalent goods or services would have been a campaign expenditure described in Attachment A. The amount of the expenditure shall be the fair market value of the contribution on the date of receipt.

3) The voluntary expenditure limit does not establish a recommended voluntary campaign expenditure ceiling within the meaning of Government Code section 85400 et seq. It is the intent of the City Council, in adopting this resolution, not to trigger the enhanced campaign contribution limits contained in Government Code section 85402(a) et seq.

4) In the event that any candidate wishes to abide by the campaign contribution limit requested by the City Council, he or she may file with the City Clerk a written notice of his or her intent to limit his or her campaign expenditures to \$28,000 for the 2009 election, and such intent will be indicated in the official voter's pamphlet.

5. The cost of printing and translating Candidate Statements shall not be counted against the voluntary expenditure cap of \$28,000.

6. The provisions of this resolution have no force of law.

Resolution No. 09-036

Page 2

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 3rd day of March, 2009, by the following vote:

| <u>Vote</u> | <u>Members of the City Council</u> |
|-------------|--|
| AYES: | Mahoney, Sandoval, Santoro, Wang, Wong |
| NOES: | None |
| ABSENT: | None |
| ABSTAIN: | None |

ATTEST:

APPROVED:

/s/ Kimberly Smith
City Clerk

/s/ Orrin Mahoney
Mayor, City of Cupertino

Resolution No. 09-036

Attachment A

Page 3

1. Expenditures related to mailing or distribution of campaign literature, signs, buttons, bumper stickers and similar items, shall be allocated to the next election following the date(s) on which the expenditures were made or, if the election is held on the date when the expenditures were made, to the election held on that date.
2. Expenditures related to publications in broadcast, print or electronic media shall be allocated to the next election following the date(s) specified in the contract for broadcast, publication, or dissemination or, if the election is held on the date specified for publication, broadcast, or dissemination, to the election held on that date.
3. Expenditures related to telephone banks, including costs of design and operation, costs of installing or renting telephone lines and equipment, toll charges, personnel costs, rental of office space, and associated consultants' fees, shall be allocated to the next election following the date(s) on which the expenditures were made or, if the election is held on the date when the expenditures were made, to the election held on that date.
4. Expenditures on professional services, including fees and costs of campaign consultants and pollsters, shall be allocated to the next election following the date(s) on which the expenditures were made or, if the election is held on the date when the expenditure was made, to the election held on that date. In the event that a contract for professional services allocates specific fees and costs to particular elections, the terms of the contract will govern allocation of expenditures to each election. If a contract provides for a bonus payment should the candidate win a particular election, the bonus payment is an expense of the election whose result triggers the payment obligation.
5. Overhead expenditures, including expenditures related to the lease of office space, payments for utilities, rental or purchase of office equipment and furnishings, miscellaneous supplies, costs of internal copying and printing, monthly telephone charges, personnel costs, and candidate or staff travel expenses, shall be allocated to the next election following the date(s) on which the expenditures were made or, if the election is held on the date when the expenditures were made, to the election held on that date.
6. Expenditures related to campaign fundraising shall be allocated to the election for which the funds were raised. If fundraising expenditures cannot be assigned in this manner to a particular election, fundraising expenditures shall be allocated to the next election following the date(s) on which the expenditures were made or, if the election is held on the date when the expense was incurred, to the election held on that date.
7. Unless there is a clear indication to the contrary, campaign expenditures not described in subdivisions (a)(1) through (a)(6) shall be allocated to the next election following the date(s) on which the expenditures were made or, if the election is held on the date when the expenditure was made, to the election held on that date. Refunds of any expenditure on goods or services not provided to or used by the campaign shall be credited to the election for which the expenditure would otherwise have been allocated.
8. The candidate shall maintain records establishing that his or her allocation of campaign expenditures was consistent with this resolution.